

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

SCOTT D. MCCLURG, et al.,)	
)	
Plaintiffs,)	
)	
vs.)	Case No. 4:12-CV-00361-AGF
)	
MALLINCKRODT, INC., et al.,)	Lead Case
)	
Defendants.)	

MEMORANDUM AND ORDER

This matter is before the Court on Plaintiffs’ motion for leave to file an amended complaint on behalf of Plaintiff David Powell, Case No. 4:14-cv-00037, to plead a cause of action under the Price-Anderson Act (“PAA”) as amended, 42 U.S.C. §§ 2014, 2210, for injuries resulting in death.

Defendant Mallinckrodt, Inc.¹ opposes the motion, arguing that the amendment is futile because the wrongful death allegations are untimely, Plaintiffs unduly delayed seeking leave to amend, and the amendment would unfairly prejudice Mallinckrodt.

The issues raised in Plaintiffs’ motion and Mallinckrodt’s opposition were discussed in detail in the Court’s August 8, 2017 Memorandum and Order (“August 8 Order”) (ECF No. 621). Upon careful consideration of the parties’ arguments, the Court will grant Plaintiffs’ motion, which was filed and fully briefed before the Court’s August 8 Order, for the reasons set forth in that Order. Because Plaintiffs have not attached their proposed amended complaint, the Court will direct Plaintiffs to file the amended complaint in Case No. 4:14-cv-00037, on or before August 14, 2017.

¹ Powell’s claims against the Defendant Cotter Corporation have been dismissed.

As the Court cautioned Plaintiffs in the August 8 Order, going forward, Plaintiffs must seek leave to amend their complaints to add wrongful death allegations in a timely manner or risk losing the ability to pursue such claims. Plaintiffs must also attach their proposed amended complaint to any future motion for leave to amend.


CONCLUSION

Accordingly,

IT IS HEREBY ORDERED that Plaintiffs' motion for leave to file amended complaints on behalf of David Powell, Case No. 4:14-cv-00037 is **GRANTED**. ECF No. 609.

IT IS FURTHER ORDERED that Plaintiffs shall have until **August 14, 2017**, to file an amended complaint pleading a cause of action under the Price-Anderson Act for injuries resulting in death, if appropriate, with respect to the Plaintiff listed above.

IT IS FURTHER ORDERED that the Clerk of Court shall file this Order in the lead case as well as Case No. 4:14-cv-00037.


AUDREY G. FLEISSIG
UNITED STATES DISTRICT JUDGE

Dated this 9th day of August, 2017.